

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

. 6	IPE	Application No.	
	· Ka	1	Applicant(s)
[]	AR 1 4 2007 Office Action Summary	10/816,635	GREER ET AL.
1.3 M	AR 14 200 Summary	Examiner	Art Unit
1	MAN INC DATE COL	Tamra L. Dicus	1774
Pe	ne MAILING DATE of this communication apperiod for Reply	ears on the cover sheet with the	e correspondence address
	A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned palent term adjustment. See 37 CFR 1.704(b).	6(a). In no event, however, may a reply be ill apply and will expire SIX (6) MONTHS fro	ON. timely filed
Sta	atus		
	1) Responsive to communication(s) filed on 11 Oc	tober 2006.	
	2a)∐ This action is <b>FINAL</b> . 2b)⊠ This a	action is non-final	
	3) Since this application is in condition for allowand	ce except for formal matters on	rosecution as to the morito in
	closed in accordance with the practice under Ex	parte Quayle, 1935 C.D. 11, 4	153 O.G. 213
Dis	position of Claims	,	
-	4) Claim(s) 1-25 is/are pending in the application.		
	4a) Of the above claim(s) 18-25 is/are withdrawn	from consideration	12 13.
	5) Claim(s) is/are allowed.	The state of the s	
	6) Claim(s) is/are rejected.	,	:*
	7) Claim(s) 1-17 is/are objected to.		
	8) Claim(s) are subject to restriction and/or e	election requirement	
Apr	olication Papers	rection requirement.	
1			
1	9) The specification is objected to by the Examiner.		•
'	0) The drawing(s) filed on is/are: a) accept	ted or b) $\square$ objected to by the E	Examiner.
	Applicant may not request that any objection to the dra	wing(s) be held in ahevance Sec	27 CED 4 05/->
1	Replacement drawing sheet(s) including the correction	is required if the drawing(s) is ob-	anta di ta Di anta anta
! '	1) The oath or declaration is objected to by the Exam	niner. Note the attached Office	Action or form PTO-152.
Prio	rity under 35 U.S.C. § 119	· .	
12	2) Acknowledgment is made of a claim for foreign prinal All b) Some * c) None of:		(d) or (f).
	1. Certified copies of the priority documents ha	ave been received.	• •
	2. Certified copies of the priority documents ha	ave been received in Application	n No.
	5. Copies of the certified copies of the priority	documents have been received	in this National Stage
	application from the international Bureau (P	CT Rule 17 2/a))	
	* See the attached detailed Office action for a list of the	ne certified copies not received	· •
			·
Attach	nment(s)		
1) 🔯	Notice of References Cited (PTO-892)	A) []	
2)	Notice of Draftsperson's Patent Drawing Review (DTO 049)	4) Interview Summary (P Paper No(s)/Mail Date	PTO-413)
O) 62	Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>09-29-06, 01-23-06, 4-02-04.</u>	5) L Notice of Informal Pate	ent Application
<u>C D </u>	and Trademark Office	6)  Other:	

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### **DETAILED ACTION**

The election of group I, claims 1-17, without traverse is acknowledged.

### **IDS**

The information disclosure statement filed 09-26-06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the number and name do not correspond. It appears to be an erroneous number, thus the relevance is not clear. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### Claim Objections

Claim 1 is objected to because of the following informalities: Instant claim 1 recites in line 3, "said first section contiguous said second section...". It appears the grammar is not correct.. Appropriate correction is required.

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# Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 11, and 14-15, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the top and bottom are coplanar with said first thermoplastic section, but does not recite which surface the second is coplanar with and to (the top surfaces of the second section are both top and bottom as is the first surface and the claim does not state which surfaces of the second are in conjunction with the first surfaces). Thus, the overall structure is not clear.

Claim 14 recites "approximately the same", which is an ambiguous because the limitation provides no direction to the degree. The term "approximately the same" is indefinite as the specification does not provide a definition to the metes and bounds of the phrase. In order to determine infringement of the present claims, one necessarily would need to determine with a reasonable degree of certainty the scope of the phrase "approximately the same." Applicant has failed to provide any such guidance and, accordingly, this phrase renders the scope of the claims unclear.

Claims 11 and 15 recite "string-like shape", which is indefinite. The phrase "string-like" renders the claim(s) indefinite because the claims include elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claims unascertainable. See *Ex* parte Copenhaver, 109 USPQ 118 (Bd. App. 1955).

# Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Harper.

Harper teaches all the limitations of instant claims 1-4 to a pavement marking illustrated in FIGS 2-3 and associated text. Specifically, 18 (first section, polyurethane), 16 (second section, paraffin resin, polyester), with adhesive between (7:55-68, 8:15-68). The adhesive is a PSA type or contact adhesive, because the material is the same it is capable of being sprayable. Instant claims 1-4 and 7 are met.

# Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harper in view Buccellato et al.

Harper essentially teaches the claimed invention.

Harper is silent to a type of adhesive used or sprayable feature, while stating PSA types can be employed (instant claims 5-7).

Buccellato teaches an adhesive composition of PSA polymers such as acrylic in a dot or stripe pattern and sprayable types see 3:54-4:68, 8:1-36 (inclusive of thermosetting and thermoplastic and sprayable (dot pattern)).

It would have been obvious to one having ordinary skill in the art to have modified the Harper pavement marking to use the adhesive of Buccellato in a dot or stripe pattern because the advantages are high shear force when tires hit pavement and high tack applied to any form/shape of pavement article (2: 45-60, 3:1-25, 3:54-4:68, 8:1-36, Examples).

Claims 8-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harper in view Buccellato et al.

Harper teaches all the limitations of instant claim 8 and 13 to a pavement marking illustrated in FIGS 2-3 and associated text except for a spray(ed) adhesive. Specifically, 18 (first section, polyurethane, polyamide), 16 (second section, paraffin resin, polyolefin, or polyester), with adhesive between (5:1-20, 7:55-68, 8:15-68). The adhesive is a PSA type or contact adhesive. Harper shows the plurality of second sections as recited per instant claim 12 in FIG. 3.

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Harper is silent to a type of adhesive used or sprayed feature, string shape while stating PSA types can be employed (instant claims 8-11, 13-15).

Buccellato teaches an adhesive composition of PSA polymers such as acrylic and acrylamide (polyamide), and ethylene glycol (polyolefin) in a dot or stripe pattern and sprayable types see 3:54-4:68, 5:1-35, 8:1-36 (inclusive of thermosetting and thermoplastic and sprayed (dot pattern)) on or under pavement markings. Method steps (sprayed) included in a product claim are product by process limitations and are given little patentable weight. The same structure and materials are provided, thus the Applicant's product and the prior art product is the same. See MPEP 2113.

It would have been obvious to one having ordinary skill in the art to have modified the Harper pavement marking to use the adhesive of Buccellato in a dot or stripe pattern and shape as claimed because the advantages are high shear force when tires hit pavement and high tack applied to any form/shape of pavement article to adhere to a road (2: 45-60, 3:1-25, 3:54-4:68; 5:1-35, 8:1-10, 16:1-68, Examples).

Further to instant claim 14, polyamide and polyolefin polyethylene are thermoplastics included in the adhesive, both polymers of first and second sections, respectively, the softening points are inherent and are considered approximately the same.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harper in view Buccellato et al. and further in view of Wiley.

The combination is relied upon above.

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The combination is silent to grid patterns as per instant claim 16.

Buccellato suggests the pavement marking has good adhesion to in particular, substrates such as asphalt and cement concrete (2:45-50).

Wiley teaches inlaid patterns in asphalt or thermoplastic surfaces using thermoplastic grids (two) to impress corporate logos or decorative designs in pavements (3:10-68, see also 3:54-68).

It would have been obvious to one having ordinary skill in the art to have modified the combination to further include grid(s) as claimed because Wiley teaches they imprint a desired pattern such as grid lines or decorative designs in pavements.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tamra L. Dicus Examiner

Art Unit 1774

January 4, 2007

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Art Unit 1774

FROM : Walter Beavers

FAX NO. :3362752009

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# SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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(rev	RM PTY v dints 7-	94) PATENT AND TRAD	OF COMMERCE BEMARK OFFICE	3ERIAL NO. 10/816,635	GROUP AR'r UNIT: 1775	Examiner Name:	File/Docket No 00644-08
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	1	6,988,010	02/14/2006	Wiley		156	309.6
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REMARKS:

Applicant believes his device is patentably distinct over the cited reference.

Respectfully submitted,

Walter L. Beavers

Attorney For Applicant Registration No. 26,704 326 South Eugene Street

Greensboro, North Carolina 27401

Telephone: (336) 275-7601 Facsimile: (336) 275-2009

E-mail: wbeavers@bellsouth.net

# SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

FORM PTO 892 U.S. DEPARTMENT OF COMMERCE SERIAL NO. GROUP ART (rev date 7-94) Examiner File/Docket No. PATENT AND TRADEMARK OFFICE 10/816,635 UNIT: 1775 Name: 00644-08 NOTICE OF REFERENCES CITED: 24 APPLICANT(S): Robert Greer **U.S. PATENT DOCUMENTS** DOCUMENT NUMBER DATE NAME CLASS SUBCLASS 5,271,690 12/21/1993 Fennessy, Sr. 2 5,385,770 01/31/1995 Julnes 3 5,775,835 07/07/1998 Szekely 4 6,449,790 09/17/2002 Szekely 5 6,576,074 06/10/2003 Cabrera et al 6 6,769,837 08/03/2004 Ross 7 6,890,124 05/10/2005 Provenzano, III 8 6,895,622 05/24/2005 Szekely 9 6,939,078 09/06/2005 Anderson et al 10 6,951,435 10/04/2005 Fennessy, Sr. U.S. 2003/0012599 11 01/16/2003 Wallgreen et al 12 U.S. 2004/0042850 03/04/2004 Provenzano, III U.S. 2004/0067336 13 04/08/2004 Munroe, II 14 U.S. 2005/0031415 02/10/2005 Sippola 15 U.S. 2005/0066623 03/31/2005 Sippola 16 U.S. 2005/0144743 07/07/2005 Szekely 17 Ser. No. 10/497,354 11/30/2004 Patrick Carl Wiley

Page 1 of 2

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		FORE	EIGN PATE	ENT DOCUMENTS			
		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	
Î	18	WO 99/25928 (Pub. No.)	05/27/1999	Minnesota Mining & Manufacturing Co.			
		OTHER REFERENCE	ES (including A	Author, Title, Date, Pertinen	it Pages, Etc.)		
	19	Shin-Etsu LIMS Product Sel-	ection Guide, tl	rree (3) pages; dated 2005			
	20	Shin-Etsu Silicone LIMS Lic	uid Injection M	folding System; five (5) pag	ges; dated 2001		
L	21	Shin-Etsu LIMS Molding Sy	stem For The N	New Age; eleven (11) pages;	dated 2000		
	22	Shin-Etsu MSDS No: EU-06 01/08/2004				ed	
	23	Shin-Etsu MSDS No: EU-06 01/08/2004	-07203066; Ma	terial Safety Data Sheet; six	ι (6) pages; date	ed	
*X	24	Shin-Etsu Data Sheet 70 Dure	ometer Fast Cu	re LIMS; one (1) page unda	ted		
	********						
		Reference 24 is undated but vertical present invention	vas commercial	ly available prior to applica	nt's conception	of the	
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### REMARKS:

Applicants believe their device is patentably distinct over the cited references.

Respectfully submitted,

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Page 2 of 2

PTO/SB/08B (08-03)
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	(Oze eż w	any sheets as n	ecessary)	Examiner Name	
Sheet	3	of	3	Attomey Docket Number	00644-08

Examiner	Cita	NON PATENT LITERATURE DOCUMENTS	
Initials*	Cite No.1	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	ī
1	23	Copy of Logos which can be used for pavement markings; Flint Trading, Inc.; 2002; one page	
	24	Copy of Horizontal Signage; for Preformed Thermoplastic Pavement Marking Material; Flint Trading, Inc.; 3 pages	
		***************************************	
1	**	13, 15, 16, 18, 20 and 24 are undated but were commercially available prior to applicant';s conception of the present invention	
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Date Signature 4 Considered EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not

Examiner

<sup>\*</sup>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not if conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of Information is required by 37 CFR 1.18. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office. P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:

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Sheet	2	of	3	Attorney Docket Number	00644-08

Examiner   Cite   Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book magazine inumal social surgestions).			NON PATENT LITERATURE DOCUMENTS	
Brochure from Integrated Paving Concepts, Inc. for decorative thermoplastic pavement markings (undated)  Brochure from 3M for Stamark Wet Reflective Pavement Marking Tape Series 820; 2001  Brochure from Jarvis for Stonegrip surface treatment and Tyregrip surface treatment (undated)  Brochure from Jarvis for Imprint paving material (undated)  Brochure from Jarvis for Imprint; a synthetic surface; July 2003  Printout from Arizona Chemical webpage for Roadmarking (undated)  Copy of Loctite Equipment operation manual for Hysol 175-Spray; 5 pages; 2001  Copy of Specification Preformed Thermoplastic Pavement Markings; 3 pages (undated)  Brochure from Flint 2000EX for propane gas fired industrial heat torch with cold burning nozzle; 2002  Copy of Logos which can be used for pavement markings: Flint Trading log; 2002; and	Examiner Initials*		Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where publisher.	T <sup>2</sup>
Brochure from Jarvis for Stonegrip surface treatment and Tyregrip surface treatment (undated)  Brochure from Jarvis for Imprint paving material (undated)  Brochure from Jarvis for Imprint; a synthetic surface; July 2003  Printout from Arizona Chemical webpage for Roadmarking (undated)  Copy of Loctite Equipment operation manual for Hysol 175-Spray; 5 pages; 2001  Copy of Specification Preformed Thermoplastic Pavement Markings; 3 pages (undated)  Brochure from Flint 2000EX for propane gas fired industrial heat torch with cold burning nozzle; 2002  Copy of Logos which can be used for pavement markings; Flint Trading Jos; 2002; and		13	Brochure from Integrated Paving Concepts, Inc. for decorative thermoplastic pavement markings (undated)	
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Brochure from Flint 2000EX for propane gas fired industrial heat torch with cold burning nozzle; 2002  Copy of Logos which can be used for pavement markings: Flint Trading, Inc.: 2003; and		19	Copy of Loctite Equipment operation manual for Hysol 175-Spray; 5 pages; 2001	-
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considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information-Officer, U.S. Patent and I. Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:

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		Named Inventor	Robert Greer	_
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Initials*	No.1	Number-Kind Code <sup>2</sup> (* Anomy	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
<b>#</b> 2_	1	<sup>US-</sup> 5,215,402	06/01/1993	Stowell et al	/ gores Appear
	2	<sup>US-</sup> 5,653,552	08/05/1997	Wiley et al	<del>                                     </del>
	3	<sup>US-</sup> 5,861,206	01/19/1999	Jensen	<del> </del>
<u> </u>	4	<sup>US-</sup> 5,895,171	04/20/1999	Wiley et al	<del>                                     </del>
	5	<sup>US-</sup> 6,024,511	02/15/2000	Ross	<del></del>
	6	<sup>US-</sup> 6,217,254	04/17/2001	Wallgren et al	<del>                                     </del>
	7	<sup>US-</sup> 6,371,689	01/16/2002	Wiley	<del></del>
	8	us- 6,382,871	05/07/2002	Ross	/
	9	<sup>us-</sup> 6,588,975	07/08/2003	Ross	
<b>\</b>	10	<sup>US-</sup> Ser. No. 09/896,795	06/29/2001	Magnus Wallgren	
	11	<sup>US-</sup> Ser. No. 10/000,448	12/04/2001	Patrick Carl Wiley	
50	12	<sup>US-</sup> Ser. No. 10/002,105	12/05/2001	Guy Ross	
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1		Country Code <sup>3</sup> "Number <sup>4</sup> "Kind Code <sup>3</sup> (if known)	MM-DD-YYYY	Applicant of Cited Document	Where Relevant Passages Or Relevant Figures Appear
	F1	WO 03/064771 A1	08-07-2003	Avery Dennison Corp.	
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# Notice of References Cited

Application/Control No.

10/816,635

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Tamra L. Dicus

Applicant(s)/Patent Under Reexamination GREER ET AL.

Art Unit
Page 1 of 1

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### NON-PATENT DOCUMENTS

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. Application Number 10/816,635 TRANSMITTAL Filing Date 04/02/2004 **FORM** First Named Inventor Greer, Robert Art Unit 1775 **Examiner Name** Tamara L. Dicus (to be used for all correspondence after initial filing) **Attorney Docket Number** Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Fee Transmittal Form Drawing(s) Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Reply Petition to Convert to a Proprietary Information After Final **Provisional Application** Power of Attorney, Revocation Status Letter Affidavits/declaration(s) Change of Correspondence Address Other Enclosure(s) (please Identify **Terminal Disclaimer Extension of Time Request** below): Request for Refund **Express Abandonment Request** CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name Signature Printed name Guerry L. Grune Date Reg. No. 46,745 **CERTIFICATE OF TRANSMISSION/MAILING** I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: Signature Date Typed or printed name

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